

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
LUIS E. ARAUJO,

Plaintiff,

-against-

RUBIN SCHRON, ABE BILLER, BEN  
BLUMENFIELD, A.K.A. CENTRAL QUEENS  
PROPERTIES, A.K.A. 853 SEVENTH AVE.  
OWNERS L.L.C., A.K.A. 853 SEVENTH  
AVENUE ASSOCIATES, A.K.A. 853  
SEVENTH AVE. REALTY CORPORATION,  
NEIL HARTMAN, SAL KURTZ, VICTOR  
VIZINHA, MANOEL JEREMIAS, RALPH  
LOPEZ, GILBERTO SMITH, 853 TENANTS  
OF 853.

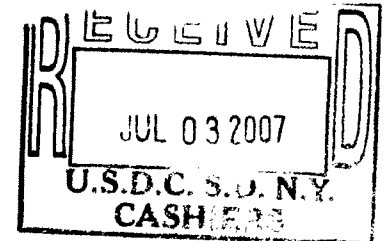
Defendants.  
-----X

JUDGE KAPLAN

**07 CIV 6210**

Civil Action No.

**NOTICE OF REMOVAL OF ACTION**



Defendants, Rubin Schron, Abe Biller, Ben Blumenfield, A.K.A. Central Queens Properties, A.K.A. 853 Seventh Ave. Owners L.L.C., A.K.A. 853 Seventh Avenue Associates, A.K.A. 853 Seventh Avenue Realty Corporation, Neil Hartman, Sal Kurtz, Victor Vizinha, Manoel Jeremias, Ralph Lopez and Gilberto Smith (collectively, "Defendants"), by and through their counsel, Robert A. Sparer, desiring to remove this civil action from the Supreme Court of the State of New York, County of New York, Index No. 07601778/07 to the United States District Court for the Southern District of New York, pursuant to 28 U.S.C. § 1441, hereby submit this Notice of Removal and allege as follows:

1. The Plaintiff commenced an action on or about May 29, 2007 by filing a Summons with Notice in the Supreme Court of the State of New York, County of New York, Index No. 07601778/07. The Plaintiff subsequently filed an Amended Summons with Notice in the Supreme Court of the State of New York, County of New York, Index No. 07601778/07 on

June 8, 2007. A copy of Plaintiff's Summons with Notice and Amended Summons with Notice are attached hereto as "Exhibit A," which were served upon Central Queens Properties on June 21, 2007.

2. The Notice of Removal is being filed within thirty (30) days of the receipt by Central Queens Properties of the Summons with Notice and Amended Summons with Notice and is timely filed under 28 U.S.C. § 1446(b).

3. Defendants' time to answer or move with respect to the Summons with Notice and Amended Summons with Notice has not expired.

4. This is a civil action in which the Plaintiff seeks relief for, *inter alia*, alleged violations of the laws of the United States, specifically Section 301 of the Labor Management Relations Act, 29 U.S.C. § 185 ("LMRA"). Plaintiff alleges that Defendants breached a contract with Plaintiff when Defendants terminated his employment. The claim, however, requires the interpretation of the collective bargaining agreement between Defendants and SEIU Local 32BJ (the "CBA") inasmuch as the propriety of the termination of Plaintiff's employment requires interpretation of various provisions of the CBA and was subject to arbitration under the CBA. Hence, Defendants seek removal based on the LMRA. Subject matter jurisdiction is conferred by 28 U.S.C. § 1331 and 28 U.S.C. § 1441.

5. Plaintiff also alleges violations of the Employee Retirement Income Security Act, 29 U.S.C. § 1001, *et seq.* ("ERISA"). Plaintiff may be seeking an interference with his retirement benefits resulting from the termination of his employment by Defendants. Thus, Defendants also seek removal based on ERISA, specifically 29 U.S.C. § 1132(e) which grants the district courts of the United States exclusive jurisdiction over such claims. Subject matter jurisdiction is conferred by 28 U.S.C. § 1331 and 28 U.S.C. § 1441.

6. This is an action over which the United States District Court has original federal question jurisdiction, pursuant to 28 U.S.C. § 1331. The federal statutes under which Plaintiff's claims arise are 29 U.S.C. § 185 and 29 U.S.C. § 1132(e). Accordingly, this action may be properly removed to this Court pursuant to 28 U.S.C. § 1441.

**WHEREFORE**, Defendants, whose attorney has signed the Notice of Removal pursuant to Rule 11 of the Federal Rules of Civil Procedure, respectfully request that this action be removed to the United States District Court for the Southern District of New York.

Dated: New York, New York  
July 3, 2007

Respectfully submitted,

CLIFTON BUDD & DeMARIA LLP  
Attorneys for Defendants

By: 

Robert Sparer (RS-1355)  
420 Lexington Avenue, Suite 420  
New York, New York 10170  
(212) 687-7410  
Fax: (212) 687-3285

TO: Luis E. Araujo  
Plaintiff, *Pro Se*  
316 W. 47<sup>th</sup> Street, Apt 3RW  
New York, NY 10036  
(646) 345-1212

## **Exhibit A**

[Print in black ink all areas in bold letters. Both pages must be completed. This summons cannot be used for divorce actions.]

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

AMENDED  
SUMMONS WITH NOTICE

LUIS E. ARAUJO

[your name(s)]

-Plaintiff(s)-

Index Number

07601778

Date Index Number

purchased MAY 29, 2007

- against -  
RUBIN SCHRON, ABE BILLER, BEN BLUMENFELD  
AKA. CENTRAL QUEENS PROPERTIES, AKA. 853 SE  
VENTH AVE. OWNERS L.L.C., AKA. 853 SEVENTH AVENUE  
ASSOCIATES, AKA. 853 SEVENTH AVE. REALTY CORPORATION,  
NEIL HARTMAN, SAL KURTZ, VICTOR VIZINHA, MANOEL  
JEREMIAS, RALPH LOPEZ, GILBERTO SMITH, 853 TENANTS OF 853;  
[name(s) of party being sued] Defendant(s)

To the Person(s) Named as Defendant(s) above:

PLEASE TAKE NOTICE THAT YOU ARE HEREBY SUMMONED to appear in this action by serving a notice of appearance on the plaintiff(s) at the address set forth below, and to do so within 20 days after the service of this Summons (not counting the day of service itself), or within 30 days after service is complete if the summons is not delivered personally to you within the State of New York.

YOU ARE HEREBY NOTIFIED THAT should you fail to answer or appear, a judgment will be entered against you by default for the relief demanded below.

Dated: MAY 29, 2007  
[date of summons]

Luis E. Araujo  
[sign your name(s)]

NEW YORK  
COUNTY CLERK'S OFFICE

LUIS E. ARAUJO  
[print your name(s)]

JUN 28 2007

NOT COMPARED  
WITH COPY FILE

316 W 47TH ST. Apt 32W  
N.Y., N.Y., 10036  
646-345-1212  
[your address(es), telephone number(s)]

Defendant(s) RUBIN SCHRON, ABE BILLER, BEN BLUMENFELD  
AKA. CENTRAL QUEENS PROPERTIES, AKA.  
853 SEVENTH AVE OWNERS L.L.C., AKA  
853 SEVENTH AVE ASSOCIATES, AKA. 853  
SEVENTH AVE REALTY CORPORATION, NEIL  
HARTMAN, SAL KURTZ, V. VIZINHA, M. JEREMIAS  
R. LOPEZ, & SMITH, 853 TENANTS OF 853 FIVE  
91-31 QUEENS BLVD. SUITE 503  
ELMHURST, N.Y. 11373  
AKA. 853 7TH AVENUE,  
N.Y. N.Y. 10019  
[address(es) of party being sued]

VERIFICATION

Luis E. ARAUJO, being duly sworn, deposes and says:

I am the plaintiff in the above-entitled action. I have read the foregoing complaint and know the contents thereof. The same are true to my knowledge, except as to matters therein stated to be alleged on information and belief and as to those matters I believe them to be true.

Luis E. Araujo  
[sign your name in front of a Notary]  
LUIS E. ARAUJO  
[print your name]

Sworn to before me this  
29 day of May, 2007

[Signature]

Notary Public

STANLEY TISCHLER  
Commissioner of Deeds  
City of New York • No. 4-5561  
Certificate Filed in New York County  
Commission Expires May 1, 2008

[Print in black ink all areas in bold letters . Both pages *must* be completed. This summons cannot be used for divorce actions.]

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

SUMMONS WITH NOTICE

LUIS E. ARAUJO  
[your name(s)] Plaintiff(s)

Index Number

07601778

- against -

Date Index Number

purchased May 29, 2007

RUBIN SCHARON, ABE BILLER, BEN BLUMENFELD,  
NEIL HARTMAN, SAL KURTZ, 853 TENANTS,  
VICTOR VIZINHA, RALPH LOPEZ, GILBERTO (PORTO)  
853 TENANTS OF 853 7TH Ave,  
[name(s) of party being sued] Defendant(s)

To the Person(s) Named as Defendant(s) above:

PLEASE TAKE NOTICE THAT YOU ARE HEREBY SUMMONED to appear in this action by serving a notice of appearance on the plaintiff(s) at the address set forth below, and to do so within 20 days after the service of this Summons (not counting the day of service itself), or within 30 days after service is complete if the summons is not delivered personally to you within the State of New York.

YOU ARE HEREBY NOTIFIED THAT should you fail to answer or appear, a judgment will be entered against you by default for the relief demanded below.

Dated: May 29, 2007  
[date of summons]

Luis E. Araujo  
[sign your name(s)]

LUIS E. ARAUJO  
[print your name(s)]

316 W 47TH ST. Apt 3RW  
N.Y. N.Y. 10036  
646-345-1212-  
[your address(es), telephone number(s)]

Defendant(s) R. SCHARON, A. BILLER, B. BLUMENFELD 91-31 QUEENS BOULEVARD  
N. HARTMAN, S. KURTZ. SUITE 503 ELMHURST, NY, 11373  
V. VIZINHA, R. LOPEZ, GILBERTO (PORTO)  
853 TENANTS AT 853 7TH Ave. 853 7TH Ave NY, N.Y., 10019  
[address(es) of party being sued]

Notice: The nature of this action is [briefly describe the nature of your case against the defendant(s), such as, breach of contract, negligence]:

I WAS FIRED FOR NOT SHOWING UP TO WORK, I  
CALLED IN SICK TO MR VIZINHA... EX. BREACH OF CONTRACT.  
FIRED DUE TO OTHER CAUSES; EXTENSIVE DAMAGE DONE  
TO YEARS WORKED AND TO MY NEARBY RETIREMENT. --- ETC. -  
ALSO PHYSICAL DAMAGE (ROSACEA, BRONCHITIS... etc)

The relief sought is [briefly describe the kind of relief you are asking for, such as, money damages of \$25,000] 4 YEARS CLOSE TO FULL RETIREMENT.  
PENSION PLAN --- ETC.; 100,000 OR TO JUDGE JUDGEMENT  
--- ETC.

Should defendant(s) fail to appear herein, judgment will be entered by default for the sum of 100,000<sup>00</sup> [amount of money demanded], with interest from the date of JUNE 20<sup>th</sup> 2006 [date from which interest on the amount demanded is claimed] and the costs of this action.

Venue:

Plaintiff(s) designate New York County as the place of trial. The basis of this designation is [check box that applies]:

- ☒ Plaintiff(s) residence in New York County
- ☒ Defendant(s) residence in New York County
- ☐ Other [See CPLR Article 5]: \_\_\_\_\_